

SECTION XV - ADULT USE/SEXUALLY ORIENTATED BUSINESS ORDINANCE

Subdivision 1.0 Definitions

Adult Use/Sexually Orientated Businesses B Adult uses/sexually orientated businesses include, but are not limited to, adult bookstores, adult motion picture theaters, adult picture rental, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouses, sauna facilities, adult companionship establishments, adult rap/conservation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, adult viewing booth, and other premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of Aspecified sexual activities≡ or Aspecified anatomical areas≡ which are capable of being seen by members of the public.

Adult Use Accessory B A use, business, or establishment having ten percent (10%) or less of its stock in trade or floor area allocated to, or twenty percent (20%) or less of its gross receipts derived from movie rentals or magazine sales in which there is an emphasis on the presentation, display, depiction or description of Aspecified sexual activities≡ or Aspecified anatomical areas≡.

Adult Use Principal - A use, business, or establishment having more than ten percent (10%) of its stock in trade or floor area allocated to, or more than twenty percent (20%) of its gross receipts derived from movie rental or magazine sales in which there is an emphasis on the presentation, display, depiction or description of Aspecified sexual activities≡ or Aspecified anatomical areas≡.

Adult Use Body Painting Studio B A business or establishment which provides the service of applying paint or other substances, whether transparent or non-transparent, to or on the body of a patron when any Aspecified anatomical areas≡ of such body are wholly or partially nude.

Adult Use Bookstore B A building or portion of a building used for the barter, rental or sale of items, consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if such building or portion of a building is not open to the public generally is only open to one or more classes of the public and is not open to any minor, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the presentation, display, depiction, or description of Aspecified sexual activities≡ or Aspecified anatomical areas≡.

Adult Use Cabaret B A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building is not open to the public generally, is only open to one or more classes of the public and is not open to any minor, or if such dancing or live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of Aspecified sexual activities≡ or Aspecified anatomical areas≡.

Adult Use Companionship Establishment B A companionship establishment if such building or portion of a building is not open to the public generally is only open to one or more classes of the

public and is not open to any minor or which provides the service of listening to or engaging in conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on Aspecified sexual activities≡ or Aspecified anatomical areas≡.

Adult Use Conversation/Rap Parlor B A Conversation/Rap Parlor if such building or portion of a building is not open to the public generally is only open to one or more classes of the public and is not open to any minor or which provides the service of listening to or engaging in conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on Aspecified sexual activities≡ or Aspecified anatomical areas≡.

Adult Use Health/Sport Club B A health/sport club if such building or portion of a building is not open to the public generally is only open to one or more classes of the public and is not open to any minor or if such club is distinguished or characterized by an emphasis on Aspecified sexual activities≡ or Aspecified anatomical areas≡.

Adult Use Hotel/Motel B A hotel or motel if such building or portion of a building is not open to the public generally is only open to one or more classes of the public and is not open to any minor and wherein material is presented which is distinguished or characterized by an emphasis on the presentation, display, depiction, or description of Aspecified sexual activities≡ or Aspecified anatomical areas≡.

Adult Use Massage Parlor, Health Club B A massage parlor or health club if such building or portion of a building is not open to the public generally is only open to one or more classes of the public and is not open to any minor and which provides the service of massage if such service is distinguished or characterized by an emphasis on Aspecified sexual activities≡ or Aspecified anatomical areas≡.

Adult Use Mini Motion Parlor, Health Club B A massage parlor or health club if such building or portion of a building is not open to the public generally is only open to one or more classes of the public and is not open to any minor and which provides the service of massage if such service is distinguished or characterized by an emphasis on Aspecified sexual activities≡ or Aspecified anatomical areas≡ for observation by patrons therein.

Adult Use Modeling Studios B An establishment whose major business is the provision, to customers, of models who are provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in Aspecified sexual activities≡ or in the presentation, display, depiction, or description of Aspecified anatomical areas≡ while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

Adult Viewing Booth B any place to which the public is permitted or invited wherein coin operated or slug operated, or electronically, electrically, or mechanically controlled or operated still or motor picture machines, projectors, or other image-producing devices are maintained to

show images to a single person per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Aspecified sexual activities≡ or Aspecified anatomical areas≡.

Adult Use Motion Picture Arcade B Any place to which the public is permitted or invited wherein coin operated or slug operated, or electronically, electrically, or mechanically controlled or operated still or motor picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at anyone time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Aspecified sexual activities≡ or Aspecified anatomical areas≡.

Adult Use Motion Picture Theater B A building or portion of a building with a capacity of more than fifty (50) persons used to show images if such building or portion of a building is not open to the public generally, is only open to one or more classes of the public and is not open to any minor or where the images so displayed are distinguished or characterized by an emphasis on Aspecified sexual activities≡ or Aspecified anatomical areas≡.

Adult Use Novelty Business B A business which has a principal activity of selling devices which stimulate human genitals or devices which are designed for sexual stimulation.

Adult Use Sauna B A sauna if such building or portion of a building is not open to the public generally, is only open to one or more classes of the public and is not open to any minor or which provides a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing, or reducing agent, if the service provided by the sauna facility is distinguished or characterized by an emphasis on Aspecified sexual activities≡ or Aspecified anatomical areas≡.

Adult Use Steam Room/Bathhouse Facility B A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing, or reducing agent, if such building or portion of a building is not open to the public generally, is only open to one or more classes of the public and is not open to any minor or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on Aspecified sexual activities≡ or Aspecified anatomical areas≡.

Liquor License B Any of the following licenses issued or approved by the County of Yellow Medicine pursuant to Minnesota Statute, Chapter 340A:

1. On-sale Intoxicating Malt Liquor License, or
2. On-sale Intoxicating Liquor License, or
3. On-sale Wine License.

Minor B Person(s) under eighteen (18) years of age.

Police Related Service Calls B Requests for assistance made to the law enforcement agency from a neighboring resident, a victim of a crime, a patron of an Adult Use/Sexually Oriented business, or the management of an Adult Use/Sexually Orientated business. Such calls may include but are not limited to: assaults, disorderly conduct, indecent exposure, prostitution, and trespassing.

Specified Anatomical Areas: Human genitals, pubic region, buttock, anus, or female breast(s), below a point immediately above the top of the areola, unless completely and opaquely covered. Human Male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified Sexual Activities:

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexual-oriented acts or conduct: analingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
2. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence.
3. Use of human or animal ejaculation or ejaculate, sodomy, oral copulation, coitus, or masturbation.
4. Fondling or touching of human genital, pubic region, buttocks, or female breast(s).
5. Situations involving a person or persons, any of whom are nude, clad in undergarments, or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical constraint of any such persons.
6. Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being.
7. Human erection, urination, menstruation, vaginal or anal irrigation.

Subdivision 2.0 Adult Use License Required

No person shall own or operate an adult use/sexually orientated business without first having secured an Adult Use/Sexually Orientated Business License from Yellow Medicine County.

2.1 Application

The application for an Adult Use/Sexually Orientated Business License shall be submitted on a form provided by the County and shall include:

1. If the application is made on behalf of a corporation, joint business venture, partnership, or any legally constituted business association, it shall include accurate and complete business records showing the names, addresses, and dates of birth of all individuals having an interest in the business, including partners, officers, owners, members, and creditors furnishing credit for the establishment or the acquisition, maintenance, or furnishings of said business including the purchase of any items of personal property for use in said operation and, in the case of a corporation, the names, addresses and dates of birth of all officers, general managers, members of the board of directors.
2. An application for license shall contain the address and legal description of the property to be used; the names, addresses, phone numbers, date of birth of the owner, lessee, if any, the operator or manager, and all employees; the name, address and phone number of two persons, who shall be residents of the state, and who may be called upon to attest to the applicant=s, manager=s, or operator=s character; whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense, and if so, complete and accurate information as to the time, place, nature of such crime or offense including the disposition thereof; the names and addresses of all creditors of the applicant, owner, lessee, or manager insofar as regarding credit which has been extended for the purposes of constructing, equipping, maintaining, operating, or furnishing or acquiring the premises, personal effects, equipment or anything incident to the establishment, maintenance and operation of the business.
3. An application for license shall contain: a statement detailing any gross misdemeanor or felony convictions relating to sex offenses, obscenity, or the operation of an adult use/sexually orientated business of adult business by the applicant, operator, or manager, and whether or not the applicant has ever applied for or held a license to operate a similar type business in any other community(s). In the case of a business entity applicant, a statement detailing any felony convictions by any owner of five percent (5%) or more of the applicant entity and whether or not any owner of five percent (5%) or more of the applicant entity has ever applied or held a license to operate a similar type of business in other community(s).
4. The activities and types of business to be conducted.
5. The hours of operation.
6. Provisions to be utilized to restrict access by minors.
7. A building plan of the premises detailing all internal operations and activities.

2.2 Responsibility to Obtain Other Permits/Licenses

The granting of any permit or license pursuant to requirements of this Ordinance, or other applicable Yellow Medicine County Ordinances, shall not relieve applicants of their responsibility to obtain any other required local, state or federal permits.

Subdivision 3.0 Adult Use/Sexually Orientated Business License Fee

1. Payment of Fees. Each application for an Adult Use/Sexually Orientated Business License shall be submitted to the Zoning Office and shall be accompanied by payment in full of the required fee for the Adult Use/Sexually Orientated Business License.
2. Expiration of Adult Use/Sexually Orientated Business License. Each license shall be issued for a period of one (1) calendar year. All licenses shall expire on the last day of December of each year. Any portion of a year less than 12 months shall be counted as a full year for the purpose of calculation of fees.
3. Annual Fee. The annual fee for an Adult Use/Sexually Orientated License shall be as detailed in the fee schedule established by the Yellow Medicine County Board of Commissioners. The fee may be adjusted from time to time by Board resolution.
4. Refund of Fee. If any application for a license is rejected, the license fee shall not be refunded. No part of the fee paid for any license issued under this Ordinance shall be refunded.

Subdivision 4.0 Granting of Adult Use/Sexually Orientated Business License

1. The Yellow Medicine County Sheriff or his designee shall investigate all facts set out in the application. Each owner of the establishment, be it an individual, or in the case of business entity owner, any owner of five percent (5%) or more of the business entity, shall be subjected to a criminal history background check by the Sheriff or his designee. Costs of the criminal history investigations shall be borne by the applicant according to a fee schedule established by the Sheriff.

The application for the adult use/sexually orientated business license shall not be considered complete until all required information has been furnished, the investigation has been completed by the Sheriff, and a report provided to the Zoning Office by the applicant.

The Planning Commission shall hold a public hearing within thirty (30) days after the Planning and Zoning Office receives a complete application. At the hearing opportunity shall be given to any person to be heard relating to the granting of the license. The Planning Commission shall report its findings to the County Board within thirty (30) days after the hearing. The County Board shall grant or deny said Adult Use/Sexually Orientated

Business License within thirty (30) days after receipt of the report from the Planning Commission.

2. The Adult Use/Sexually Orientated Business License shall be issued only to the applicant and shall not be transferable to another holder. The license is effective only for the premises described in the application. No license may be transferred to another premises or person without the written permission of the County. If the licensee is a business entity, a change in the identity of any partner, shareholder, owner, or member of the entity, shall be deemed to be a transfer of the license. A license transferred without the written prior approval of Yellow Medicine County, is voided by the transfer.

Subdivision 5.0 Persons Ineligible for Adult Use/Sexually Orientated Business License

No license shall be issued to any individual or business entity:

1. Under twenty-one (21) years of age.
2. Who is overdue in payments to a city, county, state, or federal government for taxes, fees, fines, penalties or any other obligations
3. If the individual owner or any owner of five percent (5%) or more of the business entity has been convicted of a gross misdemeanor or felony, or of violating any law of this state or any local ordinance relating to sex offenses, obscenity offenses, or adult establishments.
4. Who is not the proprietor of the establishment for which the license is issued.
5. Who is acting as an agent for an individual who would be disqualified pursuant to the criteria herein.
6. Who has not paid the required investigation/licensing fees required by this Ordinance.

Subdivision 6.0 Places Ineligible for Issuance of Adult Use/Sexually Orientated Business License

1. No license shall be granted for adult use/sexually orientated business establishments on any premises where a licensee has been convicted of a violation of this Ordinance, or where any license hereunder has been revoked for a violation, until one (1) year has elapsed after such conviction or revocation.
2. No license shall be granted for any adult use/sexually orientated business establishment which is not in compliance with the County's land use regulations fire, health, and safety codes, and all other provisions of local, federal and state law.

Subdivision 7.0 Conditions of Adult Use/Sexually Orientated Business License

1. All licensed premises shall have the license posted in a conspicuous place at all times.
2. No minor shall be permitted on the premises.
3. Any law enforcement officer and any other inspection officer designated by the County shall have the right to enter, inspect, and search the premises of a licensee during business hours.
4. No adult goods or materials shall be offered, sold, transferred, conveyed, given, displayed, or bartered to any minor.
5. In granting a license for an adult use/sexually orientated business, the County Board may impose additional conditions to protect the best interest of the surrounding area or the County as a whole, including but not limited to parking, lighting, etc.
6. The licensee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least one year after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the County upon request.
7. The licensee must cover or otherwise arrange all windows, doors and apertures to prevent any person outside the licensed premise from viewing any items or merchandise inside the premises depicting Aspecified sexual activities≡ or Aspecified anatomical areas≡.

Subdivision 8.0 Adult Use/Sexually Orientated Business Operational Restrictions

Adult Uses Principal General Provisions. Adult Use/Sexually Orientated Businesses shall be subject to the following general provisions:

1. No person(s) under eighteen (18) years of age shall be permitted in any adult use/sexually orientated business principal premises, enterprises, establishments, business or place.
2. No liquor license shall be issued to any adult use/sexually orientated business related premises, or to any enterprise, establishment, business, or place open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction, description of, or participation in Aspecified sexual activities≡ or Aspecified anatomical areas≡.

3. No adult use/sexually orientated business related premises, and no enterprise, establishments, business or place open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction, description of, or participation in Aspecified sexual activities≡ or Aspecified anatomical areas≡ shall allow or permit the sale or service of set ups to mix alcoholic drinks. No alcoholic beverages shall be consumed on the premises of such premises, enterprise, establishment, business, or place.
4. Activities classified as obscene are prohibited in any building which is also utilized for residential purposes.
5. Adult uses/sexually orientated business, both principal and accessory, are prohibited in any building which is also utilized for residential purposes.
6. An adult use/sexually orientated business which does not qualify as an adult use accessory pursuant to Section XIV, subdivision 14 below, shall be classified as an adult use principal.

Subdivision 9.0 Permitted Locations for Adult Use Principal

Adult use principal, shall only be allowed in the General Business District (Section VIII) and the Industry District (Section IX).

1. Access, parking, screening, lighting, and other relevant site related criteria for all Adult Uses shall be as set forth in the Yellow Medicine County Land Use and Related Resource Management Ordinance, Section XII General Regulations.
2. The main entrance of a building iwhtin which any adult use principal is located shall be at least 1000 lineal feet, as measured in a straight line from the closest point of the property line of:
 - A. Any residentially used or zoned property.
 - B. Any licensed day-care center.
 - C. Any public or private educational facility classified as an elementary, junior high, or senior high school.
 - D. Any hotel or motel.
 - E. Any public park or trails system.
 - F. Any nursing home.
 - G. Any youth establishment.

- H. Any church or church related organization.
 - I. Another adult establishment.
 - J. Establishments licensed to serve alcoholic beverages.
 - K. Hospitals/Clinics.
3. No adult use principal shall be located in the same building or upon the same property as another adult use principal.

Subdivision 10.0 Hours of Operation

Hours of operation for adult use/sexually orientated business principal, shall be from 11:00 a.m. to 1:00 a.m. A different time schedule may be approved by the County Board if it can be satisfactorily demonstrated to the Board that all of the following apply:

- 1. The use does not adversely impact or affect uses or activities within 1000 feet.
- 2. The use will not result in increased policing or related service calls.
- 3. It is critical to the operation of the business.

Subdivision 11.0 Sign Regulations

Adult use/sexually orientated business principal shall adhere to the following sign regulations in addition to those set forth in the Yellow Medicine County Land Use and Related Resource Management Ordinance, Section XX.

- 1. Sign message shall be generic in nature and shall only identify the name and type of business.
- 2. Signs shall not be pictorial.
- 3. Signs shall be limited to the size and number of signs permitted in the district in which the use is located.

Subdivision 12.0 Adult Cabaret Regulations

The following additional restrictions apply to Adult Cabarets:

1. No person, firm, partnership, corporation, or other entity shall advertise, or cause to be advertised, an adult cabaret without a valid Adult Use/Sexually Orientated Business License.
2. An Adult Use/Sexually Orientated Business License shall maintain and retain for a period of two (2) years the names, addresses, and ages of all persons engaged, hired, or employed as dancers or performers by the licensee.
3. An adult cabaret is prohibited in establishments where alcoholic beverages are served.
4. No owner, operator, or manager of an adult cabaret shall permit or allow any dancer or other live entertainer to perform nude unless the performance is in compliance with requirements set forth in Paragraph #7 and Paragraph #8 below.
5. No patron or other person, excepting a dancer or live entertainer performing in compliance with Paragraph #7 and Paragraph #8 below.
6. No dancer, entertainer, or performer shall be under eighteen (18) years of age.
7. All dancing shall occur on a platform raised at least two feet (2=) above the level of the floor and intended for the purpose of dancing.
8. No dancer or performer shall perform or dance closer than ten feet (10=) from any patron unless such dancer or performer is enclosed behind a floor to ceiling glass partition.
9. No dancer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.
10. No person under eighteen (18) years of age shall be admitted to an adult cabaret.

Subdivision 13.0 Adult Viewing Booth Regulations

The following additional regulations apply to adult viewing booths:

1. Motion picture viewing booths must be without doors and the occupant must be visible at all times.
2. Only one person may be in a viewing booth at a time.
3. Walls separating booths must provide sufficient separation to prevent occupants from engaging in sexual activity.
4. Each booth must be kept clean and sanitary.

5. Minimum lighting requirements must be maintained.

Subdivision 14.0 Adult Use Accessory

- A. Section VII General Business District and Section IX Industry District, provided the accessory use conforms to the provisions of this subdivision.
- B. Limitation of space and income. Adult Use accessory shall:

1. Comprise no more than ten percent (10%) of the floor area of the establishment in which it is located or shall comprise an area no greater than 100 sq. ft. of floor area in which it is located, whichever is greater.
2. Comprise no more than twenty percent (20%) of the gross receipts of the entire business operation.

C. Limitation of Business Purpose. Business shall be limited to the sale and rental of merchandise.

D. Separation of Areas. Adult use accessory shall be restricted from, and shall prohibit sensory access to minors, by physically separating the following and similar items from areas of general public access:

1. Movie rental display areas shall be restricted from general view and shall be located within a separate room. Access to this room shall be in clear view of, and under the control of, the persons responsible for the operation of the adult use accessory.
2. Adult use magazines or publications shall not be physically accessible to minors.
3. Adult use magazines or publications shall be covered with a wrapper or other means to prevent display of any material other than the title of the publication.
4. Other adult uses not specifically cited shall comply with the intent of this Ordinance.

E. Advertising. There shall be no internal or external advertising or signing for adult use materials and adult use products.